

**7082.0700 INSPECTION PROGRAM FOR SUBSURFACE SEWAGE TREATMENT SYSTEMS.**

Subpart 1. **Inspection requirements.** Local units of government must adopt and implement a construction inspection program for new construction and replacement SSTS to enforce requirements under this chapter. The construction inspection program must specify the frequency and times of inspections, specify the requirements of an inspection, establish an inspection protocol, provide for when an inspection cannot be completed in a timely manner, and, at a minimum, include the requirements for a compliance inspection under subparts 2 and 3, except for subpart 3, item E.

Subp. 2. **Compliance inspection; new construction or replacement.**

A. A compliance inspection for all new construction or replacement must be conducted:

- (1) to ensure compliance with applicable requirements;
- (2) to ensure compliance before issuance of a permit for the addition of a bedroom on property served by an SSTS, if the local unit of government issues permits for the addition of a bedroom, unless the requirements under part 7082.0500, subpart 3, item C, are met;
- (3) by a qualified employee or licensed inspection business, authorized by the local unit of government, who is independent of the owner and the installer; and
- (4) for an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure if conducted by a party who is not the system owner. This disclosure action constitutes a compliance inspection and must be conducted according to this chapter.

B. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property, provided the inspection business is also licensed to design and install.

C. A licensed inspection business working on behalf of a local unit of government must not design or install a new or replacement system if there is a likelihood that the inspector or business will be responsible for permitting or inspecting the new or replacement system or system site.

D. A licensed inspection business may inspect an existing system that they designed or installed once it has been independently inspected.

E. A person working for or on behalf of a local unit of government is not allowed to use the person's position to solicit for private business gain.

Subp. 3. **Certificate of compliance; notice of noncompliance.**

A. SSTS in compliance with applicable requirements must be issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance. SSTS not in compliance with part 7080.1500, subpart 4, item A, or 7081.0080, subpart 3, must be repaired or replaced within ten months or as directed under Minnesota Statutes, chapter 145A. Systems out of compliance with other applicable requirements must be repaired or replaced according to local ordinance requirements. Systems issued a notice of noncompliance for operational or monitoring

deficiencies must immediately be maintained, monitored, or managed according to the operating permit.

B. The initial certificate of compliance must be issued if reasonable assurance is evident that the system was built according to applicable requirements as specified in the construction permit.

C. Local units of government must develop a certificate of compliance document or use a certificate of compliance developed by the agency for new construction and replacement. The certificate of compliance for new construction and replacement must include the vertical separation distance report described in subpart 4, item B, subitem (2), and the management plan developed under part 7082.0600, subpart 1. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, as defined under part 7080.1100, subpart 84, designations as applicable, and Class V designation as applicable.

D. A certificate of compliance or notice of noncompliance for new construction or replacement must be signed by a licensed inspection business or by a qualified employee certified as an inspector who is authorized by the local unit of government. The certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the local unit of government no later than 15 days after any compliance inspection. The certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the owner or owner's agent within 15 days after any compliance inspection.

E. A certificate of compliance or notice of noncompliance must include a certified statement from the certified individual or qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with local ordinance requirements.

F. If a compliance inspection for new construction and replacement indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect and specify the reason for noncompliance.

G. Certificates of compliance for new construction or a replacement system remain valid for five years from the date of issuance unless the local unit of government finds evidence of noncompliance.

**Subp. 4. Compliance inspection; existing systems.**

A. A compliance inspection of an existing system must first determine whether the soil dispersal system, sewage tanks, or other conditions pose an imminent threat to public health and safety as defined in part 7080.1500, subpart 4, item A. A determination must then be made as to whether the sewage tanks and soil dispersal area are failing to protect ground water as defined in part 7080.1500, subpart 4, item B. The inspection must also verify compliance with part 7080.1500, subpart 4, item C.

B. The agency's inspection report form for existing SSTS, supplemented with any necessary or locally required supporting documentation, must be used for the existing system compliance

inspections in subitems (1) to (4). Allowable supporting documentation includes tank integrity assessments made within the past three years and prior soil separation assessments.

(1) Tank integrity and safety compliance assessments must be completed by a licensed SSTS inspection, maintenance, installation, or service provider business or a qualified employee inspector with jurisdiction. A compliant tank integrity assessment must be completed on an empty tank, through a maintenance hole when available, and is valid for three years unless a new evaluation is requested by the owner or owner's agent or is required according to local regulations.

(2) A soil separation compliance assessment must be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must be determined either by conducting new soil borings or by prior soil separation documentation made by two independent parties. The soil borings used for system design or previous inspections are allowed to be used. If the soil separation has been determined by two independent parties, a subsequent determination is not required unless requested by the owner or owner's agent or required according to local regulations.

(3) Determination of hydraulic performance and other compliance in part 7080.1500, subpart 4, item A, must be completed by either a licensed inspection business or a qualified employee inspector with jurisdiction.

(4) A determination of operational performance and other compliance in part 7080.1500, subparts 4, item C, and 5, must be completed by a licensed advanced inspection business, a qualified employee with an advanced inspector certification with jurisdiction, or a service provider. A passing report is valid until a new inspection is requested.

C. A certificate of compliance or notice of noncompliance for an existing system must be based on the results of the verifications in item B. The certificate of compliance or notice of noncompliance for an existing system must be signed by a licensed inspection business or a qualified employee inspector with jurisdiction. The certificate or notice for an existing system must be submitted to the local unit of government with jurisdiction and the property owner or owner's agent no later than 15 days after a compliance inspection. The completed form must also be submitted to the owner or owner's agent. The certificate of compliance for an existing system is valid for three years from the date of issuance, unless a new inspection is requested by the owner or owner's agent or is required according to local regulations.

D. If a compliance inspection for an existing system indicates that the system is noncompliant, the notice must be signed by a licensed inspection business or qualified employee inspector with jurisdiction, contain a statement of noncompliance, and specify the reasons for noncompliance of each component specified in item B.

**Subp. 5. Periodically saturated soil disagreements.**

A. If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in this subpart.

(1) All local dispute resolution procedures must be followed.

(2) If no local dispute resolution procedures exist, the disputing parties must meet at the disputed site in an attempt to resolve differences.

(3) If the provision in subitem (2) does not resolve the differences, then one or more of the methods in units (a) to (c) must be employed.

(a) Obtain an opinion from a qualified employee of the local permitting authority with jurisdiction, if the local permitting authority is willing to provide an opinion.

(b) Obtain an opinion from an SSTS technical evaluation committee, if a committee has been developed for this purpose and is available and willing to render an opinion. The committee must be created in cooperation with the commissioner.

(c) Obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.

(d) If options under unit (a) or (b) are not viable, an opinion must be rendered under unit (c).

(4) If opinions rendered in subitem (2) or (3) do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the local unit of government. The local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.

B. If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and a local unit of government for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.

(1) The local unit of government and the licensed business must meet at the disputed site in an attempt to resolve differences.

(2) If the provision in subitem (1) does not resolve differences, then one or more of the methods in item A, subitem (3), unit (b) or (c), are allowed to be employed.

(3) If opinions in subitem (2) are not sought or do not resolve the dispute, the local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.

C. Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

**Statutory Authority:** *MS s 115.03; 115.55*

**History:** *32 SR 1413; 35 SR 1353; 45 SR 725*

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